THE HON'BLE SRI JUSTICE GODA RAGHURAM

WRIT PETITION NO. 13120 OF 1997

DATED: 19.07.2006

Between:

P. Radhakrishna s/o Butchi Raju, R/o Madanapalle,
Chittoor District.

… Petitioner

And

The Government of AP, rep. by its Secretary,
Education Department, Secretariat,
Hyderabad and others.

… Respondents

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ORAL ORDER:

A retired teacher who was employed in R-3 college, an aided educational institution as the Head of Commerce Department, has filed this writ petition after superannuation, in substance for a direction to the 2nd respondent to permit him to avail the encashment benefit of 52 days of earned leave to his credit. The petitioner retired from service in an aided post in R-3 College on 31.8.1994 on attainment of superannuation. Even before retirement on 30.7.94 he represented to the Principal of R-3 College for encashment of 52 days earned leave. According to the petitioner the Principal on 20.3.95 forwarded

the proposals for encashment of 52 days earned leave to the 2nd respondent. In fact the letter of the Principal of R-3 college was a reminder of the earlier letters dated 16.8.94 and 21.9.94. There being no response from the 2nd respondent, the writ petition is filed.

The petitioner pleads that he is entitled to the benefit of encashment of earned leave to his credit as on the date of retirement. This entitlement is claimed on the assertion that the R-3 college is an aided college; all conditions of service prevailing in Government colleges are applicable to R-3 college; persons who are employed in aided colleges are also entitled to all privileges and benefits available to regular employees working in Government colleges; and that the petitioner is entitled to all conditions of service available to Government servants.

The petitioner has not specifically or by any necessary implication in the pleadings specified the statutory instruments or Government Orders on the basis of which he claims not only the benefit of encashment of earned leave but also the obligation of the State or in the alternative of the 3rd respondent college to pay him this benefit.

On behalf of the official respondents a counter affidavit is filed by the Joint Director, Collegiate Education in the 2nd respondent's office. It is categorically pleaded in this counter that the benefit of encashment of earned leave by retired employees has not been extended to employees working in private aided colleges and therefore the request of the principal of the 3rd respondent-college for providing the additional amount towards encashment of earned leave to the petitioner was rejected in the 2nd respondent's proceedings dated

4.11.1994.

At the hearing of this writ petition, the learned counsel for the petitioner Mr. M.Panduranga Rao, brings to the notice of this court G.O. Ms. No. 418 Education dated 18.4.1979, reproduced faithfully in the AP Fundamental Rules and Subsidiary Rules, a compilation of Panchayat Publications, 18th edition, p.576. As contained in this compilation G.O.Ms.No. 418 contains an order of the Government extending the facility of encashment of surrender leave sanctioned to the Government employees, to teachers in all the non-Government schools and colleges under the management of Zilla Parishads etc., w.e.f. 1.3.1979.

Encashment of surrender leave is a financial benefit available during the currency of service. What the petitioner claims is encashment of earned leave to his credit as on the date of his retirement. This is a different and distinct financial benefit, which is available after retirement subject to ceiling of quantum of leave prescribed in the instrument entitling such benefit and sometimes a ceiling on the amount of encashment permitted. Encashment of surrender leave being distinct from encashment of earned leave, one available during the currency of service and the other after retirement, in the absence of any Government Order shown even at the hearing of the writ petition entitling the petitioner, a member of private aided educational institution, to the benefit of encashment of earned leave, no case is made out for grant of any relief.

There are no merits in the writ petition, which is accordingly dismissed. No order as to costs.

Dt: 19.07.2006 ----------

Pvsn Justice G. Raghuram